IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 20448 of 2004

Between:

Toorupunoori Ravi, S/o. Shankaraiah, Hindu,
R/o. Peepalpahad, Choutuppal Mandal, Nalgonda District.

..... PETITIONER

AND

1.The Deputy Commissioner of Prohibition and Excise,
Mahaboobnagar Division, Mahaboobnagar (PO) & District.
2.The Prohibition & Excise Inspector, Station House Officer,
Chandoor (PO) Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue rule nisi calling for the records leading upto and inclusive of the proceedings of the 1st respondent in Cr.No.B2/568/04, dated 26-10-2004 and quash the same by issuing a Writ, order or direction in the nature of Certiorari.

Counsel for the Petitioner:MR.E.V.BHAGIRATHA RAO

Counsel for the Respondent Nos.1 and 2: GP FOR PROHIBITION & EXCISE

The Court made the following :

ORDER:

This writ petition is filed aggrieved by the order dated 26.10.2004 passed by the first respondent- Deputy Commissioner of Prohibition and Excise, Mahaboobnagar Division, Mahaboobnagar, whereunder while granting interim custody of the vehicle in question, the petitioner was directed to furnish Bank guarantee from any Nationalised Bank for the full value of the vehicle.

As can be seen from the material on record, the vehicle (Auto-rickshaw bearing No.AP 11 V 7750) was seized in connection with the offence punishable under the A.P. Excise Act (for short, 'the Act') and the proceedings initiated for confiscation of the vehicle under Section 45 of the Act are pending before the first respondent.

The petitioner states that he is the owner of the said vehicle in question, having purchased the same under hire purchase agreement for a sum of Rs.45,000/- and that he had no knowledge about the alleged offence. It is also stated that he is not in a position to submit the Bank Guarantee as directed by the first respondent and unless the said condition which is onerous is modified, he stands to suffer irreparable injury. It is also stated that he is ready to furnish the necessary security instead of the Bank Guarantee.

Having heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise appearing for the respondents, the Writ petition is disposed of with a direction to the first respondent to release the vehicle in question by way of interim custody subject to furnishing third party security from Government employee or employee of Public Sector Undertaking to the satisfaction of the first respondent-Deputy Commissioner of Prohibition and Excise, Mahaboobnagar. The condition No.1 under the impugned order dated 26-10-2004 shall stand modified accordingly. The other conditions, imposed by the first respondent, shall remain valid. No costs.

16.11.2004

Note: Issue C.C. in two days.

(B/O)

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To

1.The Deputy Commissioner of Prohibition and Excise,
Mahaboobnagar Division, Mahaboobnagar (PO) & District.
2.The Prohibition & Excise Inspector, Station House Officer,
Chandoor (PO) Nalgonda District.

3.2CCs to the G.P. for Prohibition & Excise, High Court Buildings,
Hyderabad (OUT).

4.2CD copies